DOE F 1325.B
(8-89)
EFG (07-90)

United States Government **Department of Energy**

memorandum

DATE: March 24, 2006

REPLY TO ATTN OF: Office of Air, Water and Radiation Protection Policy and Guidance (EH-41):Boulos:6-1306

SUBJECT: Information - Clean Air Act Protection of Stratospheric Ozone Final Rule: Extension of Global Laboratory and Analytical Use Exemption for Essential Class I Ozone-depleting Substances

TO: Distribution

On December 29, 2005, the Environmental Protection Agency (EPA) issued a final rule in the *Federal Register* (70 FR 77048) on "Protection of Stratospheric Ozone: Extension of Global Laboratory and Analytical Use Exemption for Essential Class I Ozone-depleting Substances." The final rule is available at the Department of Energy (DOE) Environmental Policy and Guidance Web site at: http://www.eh.doe.gov/oepa/rules/70/70fr77048.pdf. This rule will potentially affect DOE laboratories that purchase newly produced or imported Class I ozone-depleting substances (ODS) for laboratory and analytical use. Any such purchase would entail providing a certification to the producer, importer, or distributor of the ODS (see below). Use of stockpiled or recycled Class I ODS for laboratory and analytical use would not be affected by this rule.

In the rule, the EPA is extending the global laboratory and analytical use exemption for production and import of class I ODS from December 31, 2005, to December 31, 2007, consistent with recent actions by the Parties to the Montreal Protocol[1] on substances that deplete the ozone layer. The Protocol provides exemptions that allow for continued import and/or production of ODS for specific uses. Under the Protocol, for most Class I ODS, the Parties may collectively grant exemptions to the ban on production and import of ODS for uses that they determine to be "essential."[2] This rule finalizes the proposed extension of May 13, 2005 (70 FR 25726).

---

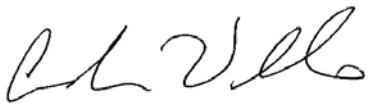
[1] The Montreal Protocol on Substances that Deplete the Ozone Layer (Protocol) is the international agreement to reduce and eventually eliminate the production and consumption of all stratospheric ODS. The elimination of production and consumption of ODS is accomplished through adherence to phase-out schedules for specific Class I ODS including: chlorofluorocarbons (CFCs), halons, carbon tetrachloride, and methyl chloroform. The Clean Air Act, as amended in 1990 and 1998, requires EPA to promulgate regulations implementing the Protocol's phaseout schedules in the United States. Those regulations are codified at 40 CFR part 82.

[2] Use of a controlled substance is "essential" only if (1) it is necessary for the health, safety or is critical for the functioning of society (encompassing cultural and intellectual aspects), and (2) there are no available technically and economically feasible alternatives or substitutes that are acceptable from the standpoint of environment and health (Decision IV/25 of the Parties). Appendix G to Subpart A of part 82 ("United Nations Environment Programme (UNEP) Recommendations for Conditions Applied to Exemption for Essential Laboratory and Analytical Uses") identifies essential laboratory and analytical uses to include, "equipment calibration; use as extraction solvents, diluents, or carriers for chemical analysis; biochemical research; inert solvents for chemical reactions, as a carrier or laboratory chemical and other critical analytical and laboratory purposes."

The global exemption for Class I controlled substances for essential laboratory and analytical uses is subject to the restrictions in Appendix G to Subpart A of 40 CFR part 82, and to the record-keeping and reporting requirements at Section 82.13(u) though (x). The annual certification requirement at 40 CFR 82.13(w) is relevant to DOE laboratories. This requirement states that:

> A laboratory customer purchasing a controlled substance under the global laboratory essential-use exemption must provide the producer, importer, or distributor with a one-time-per-year certification for each controlled substance that the substance will only be used for laboratory applications and not be resold or used in manufacturing. The certification must include:
>
> 1. the identity and address of the laboratory customer
> 2. the name and phone number of a contact person for the laboratory customer
> 3. the name and quantity of each controlled substance purchased, and the estimated percent of the controlled substance that will be used for each listed type of laboratory application.

Questions on the final rule can be directed to Mr. Emile Boulos of my staff at: emile.boulos@eh.doe.gov; 202-586-1306.



Andrew Wallo
Director
Office of Air, Water and Radiation
Protection Policy and Guidance